

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

May 10, 2007

Vice Chairman B. Turnquist called the meeting to order at 4:05 p.m. and roll was taken.

MEMBERS PRESENT: B. Mazade, L. Spataro, B. Larson, S. Warmington, J. Aslakson,
B. Turnquist, B. Smith

MEMBERS ABSENT: T. Michalski, excused; T. Harryman, excused

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: D. Masselink, Interactive Studio Architects; J. Camp, Moore &
Bruggink; M. Miller, 283 Houston

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of April 12, 2007 be approved, was made by J. Aslakson, supported by B. Mazade and unanimously approved.

NEW BUSINESS/PUBLIC HEARINGS

L. Spataro arrived at 4:05 p.m.

S. Warmington arrived at 4:07 p.m.

Hearing; Case 2007-11: Staff-initiated request to rezone multiple properties in the portion of the city presently zoned H, Heritage District, roughly bounded by Western Avenue, Ninth Street, Muskegon Avenue, and Second Street. L. Anguilm presented the staff report. This case is a result of a recommendation from the Historic District Commission (HDC) back in 2006. A brief discussion was also held at a Planning Commission meeting last year regarding HDC's reasons for the request. The H, Heritage District zoning district encompasses portions of both residential and commercial properties near Muskegon's downtown. It also includes two of Muskegon's historic districts, the Clay-Western and National Register Districts. Rezoning of these properties will have no effect on their historic district status. In fact, the Heritage zoning does nothing to protect the historic character of any of the buildings in the district. It is, however, rather restrictive in what is allowed through principal and special uses. Last year the Planning Commission recommended and City Commission approved some additional principal uses on Western Avenue to allow for the increased commercial development taking place in that area. Additional concerns were voiced from HDC members regarding the "chopping up" of older homes in that area for use as two-family units, which is a principal use in the present Heritage zoning. Staff spent several months studying the area to determine how to best zone those properties in the district. Some were obvious, while others were more difficult deal with. Both the B-3 and R-1 zoning would be an extension of existing zones adjacent to the present Heritage zoning. Hopefully, this proposed rezoning makes the most sense and will accomplish what is intended for the area. According to the Downtown/Lakeshore

Redevelopment Plan, Western Avenue is designated as a “Guest and Entertainment Center”. Uses in this area are suggested to provide “entertainment, service and retail uses”. This is becoming a reality with each new development that has been taking place in the past few years. The remainder of the H district is referenced as “nearby historic residential districts”. In addition to merely rezoning the area, other issues came to light. Those will be addressed in several cases that follow, but include adding a few special uses in both B-3 and R-1 that make sense for those areas, and will keep as many properties as “legal, conforming” uses as possible. Staff recommends approval of the request to rezone the subject properties from H, Heritage, to R-1, One Family Residential and B-3, Central Business districts, because the request conforms to the goals and recommendation of the City’s 1997 Master Plan. G. Smith of 487 W. Webster e-mailed to say that he was in favor of the rezoning.

A motion to close the public hearing was made by B. Larson, supported by S. Warmington and unanimously approved.

A motion that the request to rezone multiple properties located in the portion of the city presently zoned H, Heritage district, roughly bounded by Western Avenue, Ninth, Street, Muskegon Avenue, and Second Street to R-1, One Family Residential and B-3, Central Business districts as described in the public notice, be recommended for approval to the City Commission pursuant to the City of Muskegon Zoning Ordinance and the determination of compliance with the intent of the City’s Downtown/Lakeshore Redevelopment Plan and zoning district intent, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

B. Turnquist stated that he had received a request to change the order of the agenda to hear the site plan review next. Board members agreed.

Case 2007-19: Request for site plan review for a cancer treatment center at 1440 E. Sherman Boulevard, by Dwayne Masselink, Interactive Studio Architects. L. Anguilm presented the staff report. The site is presently the home of the Westshore Regional Spine Center. They will soon be moving to a new complex on Mercy Drive. The applicant requests approval for a 17,535 square foot addition to the present 13,280 square foot building. The property is zoned MC, Medical Care, as are the properties to the west, north and east. The property to the south, across Sherman Boulevard, is located in the city of Norton Shores. With the addition of over 17,000 square feet to the building, additional parking has also been proposed for the site and is shown to the south, in front of the building. The amount of parking on the site falls somewhat short of the parking requirement. However, there is a parking agreement in place between Mercy Hospital and the Muskegon Cancer Center for 10 spaces, which will fulfill the requirement. There are several mature oak trees slated to be removed in the front of the building to expand the parking area. Staff has requested that additional trees be added to the landscaping plan to replace those being removed. The Planning Department requires that a revised landscaping plan be submitted and approved as a condition of site plan approval. The landscaping plan, although improved from the first submission, needs the “Plant List” revised with all types listed and the correct number properly indicated. The Engineering Department has no issues with the site plan. The Fire Department has the following conditions: “the building must be fully fire suppressed, and fire suppression Fire Department connection shall be in plain view and accessible at all times”. The DPW has no issues with this site plan, but does have the following comment: “ninety degree bends on 6 inch fire line should be avoided; provide riser detail with fire protection plans”. Staff has received no other comments regarding this request and recommends approval subject to the conditions listed in the staff report.

B. Larson asked if there was any documentation of the parking agreement with Mercy. L. Anguilm stated that she had a letter. J. Aslakson asked if there was an overall plan for the hospital campus. L. Anguilm stated that she had received a site plan recently for additional parking, but hadn't reviewed it yet. However, it was not for the entire campus. L. Spataro stated that he preferred to see ample pedestrian connectivity on the site, which would reduce the dependence on large parking areas.

A motion that the site plan for an addition to the medical building located at 1440 Mercy Drive for Dwayne Masselink, Interactive Studio Architects, be approved, with the conditions that 1) all requirements addressed in item #5 of the staff report shall be provided as needed on a revised site plan prior to issuance of a building permit, and 2) all conditions of the Fire Department listed in item #7 of the staff report are met, was made by B. Larson, supported by B. Mazade and unanimously approved.

Hearing; Case 2007-12: Staff-initiated request to amend Article XX of the zoning ordinance to remove H, Heritage District zoning from the ordinance. L. Anguilm presented the staff report. Providing that the previous request to rezone all properties in the H, Heritage district to either R-1, One Family Residential or B-3, Central Business is recommended to City Commission for approval and subsequently approved by Commission, it will be necessary to remove this section of the zoning ordinance.

A motion to close the public hearing was made by S. Warmington, supported by J. Aslakson and unanimously approved.

A motion that the amendment to remove Article XX, H, Heritage District, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, with the condition that the rezoning of the H, Heritage district as proposed in case 2007-11 is approved by City Commission, was made by J. Aslakson, supported by B. Smith and unanimously approved.

Hearing; Case 2007-13: Staff-initiated request to amend Section 1202, (Special Land Uses Permitted), Article XII, (B-3 Central Business District), of the zoning ordinance to allow additional special uses. L. Anguilm presented the staff report. If the properties in the H, Heritage District are rezoned as recommended in the previous case, some uses previously allowed in the H district would no longer be allowed in the downtown area, even under a special land use permit. In addition, galleries and museums are presently only allowed in OSR, Open Space Recreation and therefore, the Muskegon Museum would continue to be nonconforming. Staff believes our downtown is an appropriate place for galleries and museums, and proposes adding them as special uses. Also included in this request are private clubs, lodge halls, social and similar organizations, including assembly or rental halls, as well as antique shops. By allowing these uses through special land use permit, certain properties, such as the Eagles, remain conforming but require a special permit for any additional such uses in the future. Proposed new language is as follows: "8. Private clubs, lodge halls, social and similar organizations, including assembly or rental halls. 9. Galleries and museums. 10. Antique shops".

A motion to close the public hearing was made by J. Aslakson, supported by B. Mazade and unanimously approved.

L. Spataro and L. Anguilm discussed the zero lot line and build-to requirements in B-3 districts. L. Anguilm stated that she would look into adding those requirements to the ordinance.

A motion that the amendment to Section 1201, (Special Land Uses Permitted), of Article XII, B-3, Central business District, of the City of Muskegon Zoning Ordinance to allow additional special land uses in the district, be recommended to the City Commission for approval, with the condition that the rezoning of the H, Heritage district as proposed in case 2007-11 is approved by City Commission, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

Hearing; Case 2007-14: Staff-initiated request to amend Section 401 (Special Land Uses Permitted), Article IV, (R-1, One Family Residential District) of the zoning ordinance to add bed and breakfast facilities as a special land use (in the Clay-Western and National Register historic districts) in an R-1 district, with conditions. L. Anguilm presented the staff report. Similar to the previous case, the H, Heritage District allows for bed and breakfast facilities with a special land use permit. There are some already existing in this area and it seems to be a good use to be located near our downtown. Short of allowing them in all R-1 zoning districts, which could trigger a barrage of requests to Planning Commission, staff would recommend that they be allowed only in the Clay-Western and National Register historic districts. The same conditions presently imposed in the H district are recommended, except condition “a” was added, requiring that the home be located in the Clay-Western or National Register Historic Districts, as identified by the City of Muskegon Historic District Commission map.

A motion to close the public hearing was made by B. Mazade, supported by B. Larson and unanimously approved.

A motion that the amendment to Section 401 (Special Land Uses Permitted), of Article IV, R-1, One Family Residential Districts, of the City of Muskegon Zoning Ordinance to allow bed and breakfast facilities under certain conditions, be recommended to the City Commission for approval, with the condition that the City Commission also approves the rezoning of the H, Heritage district as proposed in case 2007-11, was made by J. Aslakson, supported by B. Larson and unanimously approved.

Hearing; Case 2007-15: Staff-initiated request to amend Section 1200, (Principal Uses Permitted #1), of Article XII, (B-3. Central Business District), of the zoning ordinance to clarify allowed retail sales. L. Anguilm presented the staff report. A question was raised to staff as to whether the sale of “merchandise” included “commodities”. Since other sections of the ordinance (B-1 and B-2), call out “commodities”, staff felt it might be prudent to clarify the B-3 language so the intent of this section of the ordinance is clear, and make the language more consistent with other Business zonings. The intent of the B-3 district is “to create a shopping, living, cultural, governmental, office, heritage and institutional focal point for the City of Muskegon and Muskegon area”. New language (additions are in bold): “1. Retail sales of new merchandise **and commodities**, provided that all sales are made from a completely enclosed building except that this section shall not prohibit the sales of antique collector items, this section shall prohibit the operation of a store whose primary sales are previously used products, except as further regulated.”

A motion to close the public hearing was made by J. Aslakson, supported by B. Smith and unanimously approved.

A motion that the amendment to Section 1200 (Permitted Uses, #1), of Article XII, B-3, Central Business District, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, was made by B. Larson, supported by L. Spataro and unanimously approved.

Hearing: Case 2007-16: Staff-initiated request to amend Section 2334 (Signs, #8) of Article XXIII, General Provisions, to remove H, Heritage, zoning from “Permitted Signs” in the sign ordinance. L. Anguilm presented the staff report. If Case 2007-11 is approved by the City Commission, there will not be an H district left in the City. Therefore, reference to it in the sign ordinance needs to be removed. New language: (deletions are crossed out and additions are in bold): “8. Permitted signs in the B-1, Waterfront Marine Zone, Open Space Conservation, Open Space Recreation, and Lakefront Recreation and Heritage Districts.”

A motion to close the public hearing was made by L. Spataro, supported by B. Mazade and unanimously approved.

A motion that the amendment to Section 2334 (Signs, #8), of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance to remove the reference to Heritage zoning, be recommended to the City Commission for approval, with the condition that the rezoning of the H, Heritage district as proposed in case 2007-11 is approved by City Commission, was made by L. Spataro, supported by B. Smith and unanimously approved.

Hearing: Case 2007-17: Staff-initiated request to amend Section 2331 (Landscaping, Fencing, Walls, Screens, and Lighting), #20 (d) of Section XXIII, clarifying the location of the “horizontal plane”. L. Anguilm presented the staff report. The Zoning Ordinance requirements for outdoor lighting were amended in 1998. At that time the present requirement for 100% cut-off lighting was put into place. The reasons behind this requirement were twofold. It is best to keep the light concentrated in the areas where it is needed for safety reasons, and also to protect the environment in several ways. Keeping outdoor lighting directed downward helps eliminate sky glow, light trespass, glare, clutter and confusion, energy waste and financial waste. Recently, a variance was obtained to this section of the ordinance to allow lights shining up into the sky to wash the wall of an office building on our lakeshore. One of the arguments made by the applicant was that our zoning ordinance didn’t designate where the “horizontal plane” was, and the applicant interpreted it to be the top of the building. In order to further tighten this language so it meets the intent under which it was written into the ordinance, staff recommends the following addition: New language (additions are in bold): “d. Lighting fixtures shall be a down-type having one hundred percent (100%) cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane **passing through the lowest point on the light fixture from which the light is omitted**, as certified by the manufacturer’s photometric test.”

B. Larson stated that he didn’t like the terminology used in the lighting ordinance, and was not in favor of the amendment. L. Spataro was in favor of the ordinance and amendment, and stated that controlling lighting was part of being a good neighbor. J. Aslakson stated that the purpose of lighting was safety and security, and the ordinance helped insure the intended purpose. B. Mazade didn’t think the language needed to be as specific as what was proposed. Board members discussed the proposed amendment and the lighting ordinance in general. S. Warmington asked why the “lowest point” was chosen. L. Anguilm stated that it was difficult to find a definition, and she had checked ordinances from other municipalities to come up with the requirements.

M. Miller stated that he lived near a commercial building downtown, and their lighting illuminated his entire living room. He felt that it was important to regulate lighting to help protect neighboring properties. He asked if all new buildings were subject to site plan review. L. Anguilm stated that they were. He asked if there were design criteria for all of downtown. L. Anguilm stated that there was for the former mall site, but not for the entire downtown.

A motion to close the public hearing was made by S. Warmington, supported by L. Spataro and unanimously approved.

A motion that the amendment to Section 2331(Landscaping, Fencing, Walls, Screens, and Lighting, #20 (d) of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, was made by J. Aslakson and supported by L. Spataro, with B. Larson, B. Mazade, B. Turnquist, and S. Warmington voting nay. The motion failed.

L. Spataro asked whether board members wished to revisit the lighting issue. J. Aslakson asked that staff put that on the June agenda for discussion. L. Spataro requested that staff check into State and Federal regulations.

Hearing; Case 2007-18: Staff-initiated request to amend Section 2326 (Off Street Parking #12), of Article XXIII (General Provisions), to reduce the residential parking requirement in the Downtown Parking Overlay District. L. Anguilm presented the staff report. Staff has been discussing parking requirements and studying residential parking requirements of other municipalities. Although most municipalities require 2 spaces for each dwelling unit, some ordinances, such as Grand Rapids, require only 1 space per dwelling unit. The new “Smart Code” design concept proposes 1.5 spaces for each unit. The thinking behind that requirement is that some units are occupied by single people, and other occupants may not own a car when living in an urban area. Our “Downtown Parking Overlay District” makes no allowance for on-street parking for residential uses as it does for commercial uses. Some residential properties downtown already use some on-street parking for their residents (Amazon Building). Staff believes this minor change to the ordinance may help ease parking problems in the downtown area. Other areas of the City would not be affected, since the 2-space per dwelling unit would remain in effect. The proposed new language is: “c. In the downtown parking overlay district only, the required number of residential parking spaces shall be 1.5 spaces per dwelling unit.”

A motion to close the public hearing was made by B. Larson, supported by S. Warmington and unanimously approved.

A motion that the amendment to Section 2326, (Off-Street Parking and Loading, #12, d), of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, was made by J. Aslakson, supported by B. Larson and unanimously approved.

OTHER

Downtown Parking – S. Warmington stated that he met with the President of the DMDC to discuss parking and the meeting went well. Board members discussed the downtown parking situation, parking agreements, and the sale of property where parking agreements were involved.

There being no further business, the meeting was adjourned at 5:30 p.m.

dml
5/10/07